IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2032 of 2005

Between:

P. Subbaraya Reddy, S/o. Kannappareddy,
R/o. Bhajanagudi Street, Tiruchanur Village, Tirupathi Rural Mandal,

Chittoor District.

..... PETITIONER

AND

1 The State of A.P., rep. by the District Collector, Chittoor Dsitriat at

Chittoor.
2 The Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor

District.
3 The Mandal Revenue Inspector, Tirupathi rural Mandal, Chittoor

District.
4 The Village Secretary, Tiruchanur Gram Panchayat, Tiruchanur

Village, Tirupathi Rural Mandal, Chittoor Dist.
5 The Executive Officer, Tiruchanur Gram Panchayat, Tiruchanur

Village, Tirupathi rural Mandal, Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in blocking the channel which is being used for irrigation purposes for the past more than 20 years

without notice and without following the due process of law that too after the crops have been raised, as being illegal, arbitrary and violative of Articles 14 , 21 and 300-A of the Constitution of India, besides violative of principles of natural justice and fair play and consequently forbear the respondents from interfering with the drawing of water from the stagnant Daminedu Kaluva by the petitioner for agricultural purposes, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumsstances of thecae.

Counsel for the Petitioner:MR.D.SESHADRI NAIDU

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV. , G.P. for Revenue, G.P. for Irrigation & CAD

The Court at the stage of admission made the following ORDER:

The petitioner states that he has been irrigating his land of Ac.3.40 cents in survey Nos. 392,400 and 401 of Tiruchanur village by drawing water from a nearby pool. He complains that respondents 3 and 4 have visited the site on 06.02.2005 and directed him to remove the pipeline on or before 08.02.2005 and not to draw the water from the pool. He states that there is an existing crop on the land and if the water supply is not permitted, the crop would wither away and he seeks appropriate directions to the respondents.

Heard the learned counsel for the petitioner and the learned Government Pleader for Irrigation.

It is not the case of the petitioner that the pool from which he is said to have been drawing the water is a regular source of irrigation. The owner of land cannot irrigate his land by drawing water from an unauthorized source. Whatever may have been the circumstances under which he has been drawing the water from the pool for the past 20 years, with the fast depletion of ground water levels, it may not be permissible any more for such activities. No exception can be taken to the action of the respondents in preventing the petitioner from drawing the water. One aspect, which, however, needs to be taken into account is that if the petitioner has raised a crop depending on the water in the pool and there is sufficient quantity of water in it to irrigate the crop, till it becomes ripe for harvesting, the respondents can consider the feasibility of according permission. This Court cannot record any finding in this regard. The petitioner can make appropriate representation to the second respondent, in this regard.

Hence, the writ petition is disposed of, leaving it open to the petitioner to make

a representation to the second respondent, as indicated above, and if the second respondent is satisfied as to the existence of adequate water to bail out the crop of the petitioner, he shall pass appropriate orders thereon within a period of one week from the date of receipt of the application. There shall be no order as to costs.

21.02.2005

Note:

Issue CC by tomorrow.

(BO)

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To

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6 Two CCs. each to the G.P. for Revenue, G.P. for Panchayat Raj &

Rural Development and G.P. for Irrigation & CAD, High Court of

A.P., Hyderabad(OUT)

7 Two CD copies.